

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

ALBERT MEDINA,

Plaintiff,

v.

Civ. No. 03-0993 RLP/ACT

MOLYCORP, INC.,

Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the court on Plaintiff's Motion for Extension of Time to File Amended Complaint and Defendant's Motion to Dismiss for Failure to Comply with Deadline for Amendment. All of the parties' responses and replies to these motions have not yet been filed, but the court is sufficiently apprized of the facts and the law to make further submissions unnecessary.

By Order dated December 19, 2003 [Doc. 21], the court denied Defendant's first motion to dismiss [Doc. 10] and granted Plaintiff leave to amend his complaint, such pleading to be filed on or before January 5, 2004. Plaintiff concedes he did not read the court's Order and seeks leave to extend that deadline to file his amended complaint. Defendant opposes the motion and seeks dismissal. The court finds that dismissal would be too drastic a sanction and Defendant has suffered no prejudice. See *Hollis v. United States*, 744 F.2d 1430, 1433 (10th Cir. 1984).

IT IS THEREFORE ORDERED that Plaintiff's Motion for Extension of Time to File Amended Complaint [Doc. 24] is **granted** and that Plaintiff shall have until **February 13, 2004** to file his amended complaint;

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss for Failure to Comply with Deadline for Amendment [Doc. 22] is **denied**.

IT IS SO ORDERED.



Richard L. Puglisi  
United States Magistrate Judge  
(sitting by designation)

For the Plaintiff: Samuel M. Herrera, Esq.

For the Defendant: Thomas L. Stahl, Esq.